

THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of)
Jeffrey Herman, et al.) Group: 1731
Serial No.: 10/768,550)
Filed: January 30, 2004)
Title: APPARATUS FOR AND PROCESS OF) Examiner: M. Halpern
MATERIAL WEB FORMATION ON A)
STRUCTURED FABRIC IN A PAPER MACHINE)

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MS AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants request review of the final rejection in the above-identified application. No amendments are being filed with this request, except that claims 63-64 are withdrawn in a Request for Reconsideration After Final, in accordance with the Examiner's objection. This Pre-Appeal Brief Request for Review is being filed concurrently with a Notice of Appeal from the Examiner's decision dated January 18, 2007 finally rejecting claims 1 and 3-21, as well as with the Request for Reconsideration After Final. Claims 1 and 3-64 are pending in this application, with claims 1 and 3-21 rejected, and claims 22-64 withdrawn. The panel of Examiners is requested to review the legal and factual basis of the rejections for the reasons stated below.

Thoroe-Scherbe et al. Does Not Anticipate the Present Invention

The present invention is not anticipated by U.S. Patent Application Publication No. US 2004/0237210 (Thoroe-Scherb et al.). In support of this position, Applicants submit two arguments. First, Thoroe-Scherb et al. discloses imprinting fabric 14 as a "dewatering fabric." Second, even if, for the sake of argument, Thoroe-Scherb does not disclose that dewatering occurs

through dewatering fabric 14, Thoroe-Scherb et al. is silent as to whether dewatering occurs through dewatering fabric 14. On either ground, claims 1 and 15 should be allowed.

Thoroe-Scherb et al. discloses a method and an apparatus 10 for manufacturing a fiber web 12 provided with a three-dimensional paper structure. Fig. 3, for instance, shows a pulp suspension being introduced into a material inlet gap 44 by way of a headbox 48. A dewatering fabric 42 and an imprinting fabric 14 guide the pulp suspension around a forming roll 46, the pulp suspension being interposed between dewatering fabric 42 and imprinting fabric 14, which is also called a dewatering fabric (para. 82).

In contrast, claim 1 recites in part “providing a fiber slurry through a headbox to a nip formed by a structured fabric and a forming fabric; collecting fibers from said fiber slurry predominately in a plurality of valleys of said structured fabric; and dewatering in a forming area of the paper machine said fiber slurry through said forming fabric and not through said structured fabric.” (Emphasis added). Claim 15 recites in part “supplying a fiber slurry to a nip, said nip formed by a structured fabric and a forming fabric; dewatering in a forming area of the paper machine said fiber slurry through said forming fabric and not through said structured fabric, thereby creating the web.” (Emphasis added). Applicants submit that such an invention is neither taught, disclosed or suggested by Thoroe-Scherb et al., or any of the other cited references, alone or in combination, and includes distinct advantages thereover.

Pursuant to Applicants’ first argument, Thoroe-Scherb et al. discloses a “former with two peripheral dewatering fabrics 14 and 42” (para. 82). In calling imprinting fabric 14 a “dewatering” fabric, Applicants submit that Thoroe-Scherb et al. provides that the direction of dewatering is through at least dewatering fabric 14. This is a logical interpretation of the term “dewatering fabric.” Indeed, page 3 of the Office Action dated August 29, 2006 provides that in Thoroe-Scherb et al. the “web dewatering occurs thr[o]ugh the structured fabric 14.”

Furthermore, Applicants submit that U.S. Patent Application Publication No. 2005/0167067 (Crook et al.) supports this common sense interpretation of “dewatering fabric.” Crook et al. discloses a dewatering fabric 20, a web 12, and a structured fabric 14 being pressed against a vacuum roll 18 by a belt press assembly 22 such that dewatering occurs *through* dewatering fabric 20 (para. 19)(Fig. 1). Applicants submit that the direction of dewatering in Thoroe-Scherb, then, directly contradicts claims 1 and 15 of the present invention.

Pursuant to Applicant’s second argument, the Office Action dated January 18, 2007 provides an alternative interpretation of Thoroe-Scherb et al. That is, page 5 of the January 18th Office Action states that Thoroe-Scherb et al. “does not recite that dewatering occurs through the structured or ‘dewatering’ fabric 14 in the forming area of the paper machine.” (*See also* page 3 of the Office Action). Even assuming, for the sake of argument, that Thoroe-Scherb et al. does not explicitly disclose that dewatering occurs through dewatering fabric 14, Thoroe-Scherb et al. still fails to disclose that dewatering does *not* occur through dewatering fabric 14. In other words, assuming this latter interpretation is correct, Thoroe-Scherb et al. is completely silent as to whether dewatering occurs in the direction of dewatering fabric 14. Silence on this issue is not a disclosure that dewatering does not occur through a structured fabric in the forming area.

An advantage of the present invention is that the structured fibrous web has a thicker pillow dimension and a higher basis weight in pillow areas, as compared to prior art. Further, the structured fibrous web is more bulky or absorbent, as compared to prior art.

For the foregoing reasons, Applicants submit that claim 1, and claims 3-11 depending therefrom, and claim 15, and claims 16-19 depending therefrom, are in condition for allowance, which is hereby respectfully requested.

The Present Invention is Not Obvious in View of Thoroe-Scherb et al.

Claim 13 is not obvious in view of Thoroe-Scherb et al. Thoroe-Scherb et al. is discussed above. In contrast, claim 13 recites in part “a plurality of pillow portions each having a first basis weight property; and a plurality of connection portions each having a second basis weight property, each of said connection portions connecting at least two of said plurality of pillow portions, said first basis weight being greater than said second basis weight.” (Emphasis added). Applicant submits that such an invention is neither taught, disclosed or suggested by Thoroe-Scherb et al., or any of the other cited references, alone or in combination, and includes distinct advantages thereover.

Thoroe-Scherb et al. discloses “pillows” “which increase the water absorption capability and the bulk” (para. 36), raised/closed zones which “result[] in the desired water absorbing capability and the desired bulk” (para. 32)(Figs. 6-7), and recessed zones or bores which “result[] in web zones of high density for strength” (para. 32)(Figs. 6-7). Applicants submit, however, that Thoroe-Scherb et al. fails to disclose a comparison of the pillow portion *basis weight* and the connection portion *basis weight*. Additionally, claim 13 does not include a limitation regarding thickness. Moreover, in light of Figs. 2-11 of the present application, pillow portions may or may not be thicker than connection portions. Furthermore, Applicants submit that while Fig. 7 of Thoroe-Scherb shows web 12 through press nip 18 with imprinting fabric 14, Thoroe-Scherb et al. fails to disclose a comparison of the thickness of pillow portions to connection portions of a finished structured web. (See also para. 98). Consequently, relative to claim 13, Applicants submit that an argument that “the thicker portions [obviously] have greater basis weight than the leaner portions” does not address claim 13. (See page 4 of Office Action dated January 18, 2007).

For the foregoing reasons, Applicants submit that claim 13, and claim 14 depending therefrom, are in condition for allowance, which is hereby respectfully requested.

Claim 12 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Thoroe-Scherb et al. However, claim 12 depends from claim 1, which Applicants submit is in condition for allowance for the reasons given above. Accordingly, Applicants submit that claim 12 is also in condition for allowance, which is hereby respectfully requested.

Similarly, claims 20-21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Thoroe-Scherb et al. However, claims 20-21 depend from claim 15, which Applicants submit is in condition for allowance for the reasons given above. Accordingly, Applicants submit that claims 20-21 are also in condition for allowance, which is hereby respectfully requested.

In the event Applicants have overlooked the need for an extension of time, an additional extension of time, payment of fee, or additional payment of fee, Applicants hereby conditionally petition therefor and authorize that any charges be made to Deposit Account No. 20-0095, TAYLOR & AUST, P.C. Should any question concerning any of the foregoing arise, the Examiner is invited to telephone the undersigned at (260) 897-3400.

Respectfully submitted,

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